IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION No. 4017 OF 2003

PETITIONER : D.S.Dubey, son of late Swamidin Dubey, aged about 52 years, resident of Tikarapara, Mannu Chowk, Bilaspur (C.G), occupation: Assistant Clerk Gr.III, P.W.D., Bilaspur Division.

Vs.

RESPONDENTS : 1. State of Chhattisgarh:Through: Secretary, P.W.D. D.K.Bhawan, Raipur (C.G)

2. Engineer-in-chief, P.W.D. Raipur.

3. Chief Engineer, P.W.D. Bilaspur.

4. Superintending Engineer, P.W.D. Bilaspur Division, Bilaspur (C.G).

P.R. No. 3815/03 Presented by Shri ... (Advocate) on 05-12-03

RECEIVED 5.12.03 Clerk to A.G. Bilaspur

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

(70)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 4017/2003 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

2.2.2005

Smt. Anju Ahuja, counsel for the petitioner.

Shri J.D.Bajpai, Government Advocate for the State/respondents on advance copy.

Heard.

The petitioner has filed this writ petition under Article 226/227 of the Constitution of India, challenging the legality, validity and propriety of the order dated 23.9.2003(Annexure P-1) which is in fact an order of suspension passed under Rule 9 (1) (a) of the Madhya Pradesh (Chhattisgarh) Civil Services (Classification Control & Appeal) Rules 1966.

The submission of learned counsel for the petitioner is that the aforesaid order has been passed without any basis and without giving any opportunity of hearing to the petitioner.

After bare perusal of the order, it appears that certain provisions of the Rules of the department have been quoted under which the order of suspension has been passed, holding the alleged act of the petitioner to be a misconduct. Moreover, Rule 23 (3) provides for the provision of appeal against the order of suspension passed under Rule 9 of the aforesaid rules.

Learned counsel for the petitioner submits that the petitioner has already filed an appeal before the State Government vide Annexure P-8 dated 8.10.2003.

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Admittedly, there is an alternative remedy to file an appeal and the said remedy is being availed by the petitioner by filing the said appeal vide Annexure P-2.

Learned Counsel for the petitioner submits that the State Government has not decided the appeal of the petitioner so far. She prays that a direction be given to the State Government to decide the appeal of the petitioner expeditiously.

Looking to the facts and circumstances of the case and also looking to the fact that there is an alternative remedy of appeal available to the petitioner and it has been availed by him by filing the appeal vide Annexure P-2, which is pending, it is directed that if the appeal filed by the petitioner is pending before the State Government as stated by learned counsel for the petitioner, the State Government shall decide the same after giving due opportunity of hearing to the petitoner within a period of two months from the date of filing of the certified copy of this order along with copy of this writ petition.

With the aforesaid observations, the petition stands disposed of.

Consequently, M.W.P. No3603/2003 & I.A.No.11665/2003 also stand disposed of.

Sd/-
Sunil Kumar Sinha
Judge

Sunita